

PB-0011-1 DIV

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Printed: Margaret M Hassow

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Kaser et al.

Title: POLYCYCLIC AROMATIC HYDROCARBON INDUCED MOLECULES

Serial No.: 09/838,044

Filing Date: April 18, 2001

Examiner: Liu, S

Group Art Unit: 1653

Commissioner for Patents

Washington DC 20231

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**DECLARATION UNDER 37 CFR 1.131**

The purpose of this declaration is to establish conception combined with diligence in this application in the United States at a date prior to the earliest public availability date (June 30, 1999) of the following prior art reference cited by the Examiner: Kikuno et al., "Production of the coding sequences of unidentified human genes. XIV. The complete sequences of 100 new cDNA clones from brain which code for large protein in vitro" (DNA Res 6:197-205, June 30, 1999).

We, the undersigned inventors, Matthew R. Kaser, Yalda Azimzai, and Henry Yue declare and state that:

1. We are the inventors on the polypeptide invention, claims 15-19 claimed in U.S.S.N. 09/838,044, filed in the United States Patent and Trademark Office on April 18, 2001. This application is a divisional application of U.S.S.N. 09/386,493, filed August 30, 1999.
2. The invention, claimed at least in pending claims 15-19 of the above-identified application, was conceived prior to June 30, 1999, in this country.
3. The invention was diligently reduced to practice from the conception of the invention to the filing of the above-identified application, U.S.S.N. 09/386,493.
4. Exhibit A is a printout of computer files on Incyte ID No. 1851405, SEQ ID NO:1 encoding SEQ ID NO:6 of the instant application. See specification, at p. 8, line 33 through p. 9, line 1. (Please note that in this and subsequent Exhibits, technical and other information not relevant to this Declaration

have been blocked out.) Exhibit A discloses a file named "1851405.pro" dated June 17, 1999. Exhibit B is a copy of said file disclosing the translation of the open reading frame of SEQ ID NO:1 (first line) into the protein of SEQ ID NO:6 (second line). Exhibits A and B therefore show conception of the claimed invention prior to the critical date of June 30, 1999. Following conception, the claimed invention was diligently reduced to practice, as detailed below.

5. Exhibit C is a copy of a docket sheet, dated June 18, 1999, documenting the assignment of a docket number to the above-identified application in anticipation of filing. It is standard practice at Incyte that assignment of a docket number occurs concurrently with drafting and preparation of the application.
6. Exhibit D is a database printout dated June 21, 1999 showing the protein motifs analysis for SEQ ID NO:6 that is described in the specification at p. 9, lines 1-6.
7. Exhibit E is a copy of the Official Filing Receipt indicating that the above-identified application was filed with the U.S.P.T.O. on August 30, 1999.
8. The above Exhibits demonstrate conception of the present invention prior to the critical date of June 30, 1999. Additionally, the above Exhibits show diligence in reducing the present invention to practice from prior to June 30, 1999, until the filing date of the above-identified application, i.e., the constructive reduction to practice on August 30, 1999.

9. The undersigned further declares that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and that these statement were made with the knowledge that willful false statements and the like so made are punishable by fine, imprisonment, and/or both under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of any application or patent issued thereon.

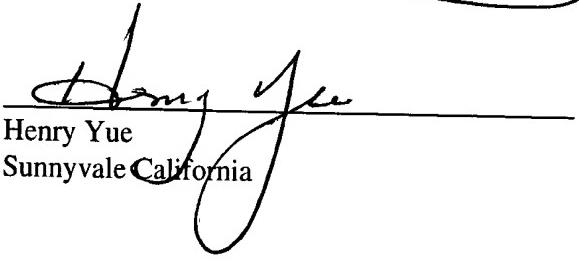
Date: \_\_\_\_\_

Matthew R. Kaser  
Castro Valley California

Date: 10/30/02

  
Valda Azimzai  
Hayward, California

Date: 10/31/2002

  
Henry Yue  
Sunnyvale California



9. The undersigned further declares that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, imprisonment, and/or both under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of any application or patent issued thereon.

Date: 1<sup>st</sup> November 2002

A handwritten signature in black ink, appearing to read "Matthew R. Kaser".

Matthew R. Kaser  
Castro Valley California

Date: \_\_\_\_\_

Yalda Azimzai  
Hayward, California

Date: \_\_\_\_\_

Henry Yue  
Sunnyvale California